REMARKS/ARGUMENTS

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

Claims 1-43 have been cancelled without prejudice and new claims 44-86 have been added in lieu thereof, respectively. Claims 1-9 as originally filed were "use" claims (while the preamble of original claim 1 did not read "Use of", "for use ..." appeared in the last 2 lines and the preamble of each of dependent claims 2-8 did read "Use of", as did the preamble independent claim 9). In the Preliminary Amendment dated November 26, 2003, claims 1-9 were restructured as compound claims. The above-noted revision of claims 1-9 as new claims 44-52 presents these claims as method of treatment claims.

In response to the Examiner's requirement for restriction, Applicants elect the subject matter of Group I (claims 1-8 (in part), 9, 10-21 (in part), 42 (in part) and 43). The election is made with traverse and the Examiner is urged to reconsider the requirement for restriction for the reasons that follow.

At the outset, it appears from the definitions of the subject matter of Groups I and II that the Examiner has assumed that when P has a value of 2 or 3, the compound of Formula I a phenothiazinium polymer. Such is not the case. In this regard, the Examiner's attention is directed to, for example, claims 24 and 25 which relate to a phenthiazinium that is reacted with a chlorotriazine derivative – here, it is the chlorotriazine derivative that is a polymer.

Focussing on the part of the phenothiazinium of Formula I inside the square brackets, the Examiner will note that there is a charged species with a positive charge shown on the S atom. There is a complimentary negative charge outside the bracket on the counteranion which is shown as X^{P-}. This negative charge is intended to balance the positive charge shown on the S

atom. Thus, in effect, what is shown when P = 1 is one moiety in the brackets with a monovalent counteranion (such as chloride, bromide or nitrate). Where P = 2, two moieties in brackets are needed to provide 2 positive charges to balance the 2 negative charges from a counteranion such as sulphate. Where P = 3, three moieties in brackets are needed to provide 3 positive charges to balance the 3 negative charges from a counteranion such as phosphate.

In each of the cases above, where P = 1, 2 or 3, the moiety in the brackets is not polymeric in nature. Rather, for example, there are 2 separate cations associated with counteranions with 2 negative charges or there are 3 separate cations associated with counteranions with 3 negative charges.

Further, if the compound of Formula (I) is properly considered, it will be appreciated that there are no points of attachment shown to link 2 or more bracketed moieties together, as would be the case if polymeric species were represented.

In view of the fact that the restriction as between at least Groups I and II appears to be based on the above-described misinterpretation of the claims, withdrawal of the requirement for restriction at least as between these two Groups is requested.

An early and favorable Action on the merits is requested.

Respectfully submitted,

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